

U.S. Army Corps of Engineers
Buffalo District

Public Notice

Applicant: Stream + Wetlands Foundation

Published: September 29, 2021 Expires: October 29, 2021

Application No: LRB-2020-01259

Section: OH

All written comments should reference the above Application No. and be addressed to: US Army Corps of Engineers, Buffalo District Regulatory Branch (Attn:) Susan L. Baker

1776 Niagara Street Buffalo, NY 14207

THIS NOTICE ANNOUNCES A PROSPECTUS THAT HAS BEEN SUBMITTED FOR THE PROPOSED DEVELOPMENT OF A WETLAND AND STREAM UMBRELLA MITIGATION BANKING INSTRUMENT COVERING THE GRAND RIVER WATERSHED WITH AN INITIAL MITIGATION BANK SITE, REFERRED TO AS THE HEMLOCK SWAMP WETLANDS AND STREAM MITIGATION BANK, PURSUANT TO 33 CFR 332, COMPENSATORY MITIGATION FOR LOSSES OF AQUATIC RESOURCES (FEDERAL REGISTER: APRIL 10, 2008, EFFECTIVE JUNE 9, 2008). DEPARTMENT OF ARMY AUTHORIZATION PURSUANT TO SECTION 404 OF THE CLEAN WATER ACT WOULD BE REQUIRED FOR PROPOSED STREAM AND WETLAND MITIGATION ACTIVITIES THAT WOULD RESULT IN A DICHARGE OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES.

GENERAL INFORMATION

PURPOSE: The U.S. Army Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; American Indian Tribes; and other interested parties in order to consider and evaluate the proposed Grand River Watershed Umbrella Mitigation Banking Instrument and Hemlock Swamp Mitigation Bank.

COMMENT PERIOD: Comments submitted within 30 days from the date of this notice will be fully considered during the review of this proposal.

DISCLAIMER: All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof, may also be posted on a Corps internet web sites. A lack of response will be interpreted as meaning that there is no objection to the work as proposed. **Due to resource**

limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

CONTACT: Comments or questions pertaining to the work described in this notice should reference the Application Number and be directed to the attention of Susan L. Baker, who can be contacted at the above address, by calling (716) 879-4474, or by e-mail at: Susan.L.Baker@usace.army.mil.

BACKGROUND

The Corps has the authority to issue permits under Section 404 of the Clean Water Act for discharges of dredged or fill material into waters of the United States, including jurisdictional wetlands, and for structures or work in navigable waters under Section 10 of the Rivers and Harbors Act of 1899. Permittees may be required to provide "compensatory mitigation" for unavoidable impacts to aquatic resources.

One such option for providing compensatory mitigation is through the purchase of credits from a mitigation bank. "Mitigation bank" means a site, or suite of sites, where resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing compensatory mitigation for impacts authorized by DA permits. Mitigation banks are operated by third-party sponsors that assume legal responsibility for providing the required compensatory mitigation of multiple permittees at one or more off-site locations. The operation and use of a mitigation bank are governed by a mitigation banking instrument. An umbrella mitigation banking instrument allows future authorization of additional mitigation bank sites to be incorporated by way of a mitigation banking instrument modification.

As indicated in the Corps regulations (33 CFR 332.8(b)), the district engineer will establish an Interagency Review Team (IRT) to review documentation for the establishment and management of mitigation banks. The IRT facilitates the establishment of mitigation banks through the development and review of mitigation banking instruments. The Ohio IRT consists of the following federal and state resource agencies: Corps - Buffalo, Huntington, and Pittsburgh Districts, U.S. Environmental Protection Agency (USEPA), U.S. Fish and Wildlife Service (USFWS), U.S. Department of Agriculture's Natural Resources Conservation Service, Ohio Environmental Protection Agency (OEPA), and Ohio Department of Natural Resources.

Approval to use an approved mitigation bank to offset impacts associated with a specific permit is the decision of the Corps. The Corps provides no guarantee that any particular general or individual permit would be granted authorization to use an approved mitigation bank to compensate for unavoidable impacts.

PROPOSAL UNDER REVIEW

BANK SPONSOR: Stream + Wetlands Foundation, 123 South Broad Street, Suite 238 P.O. Box 369, Lancaster, OH 43130

BANK LOCATION: The 150.3-acre Hemlock Swamp Wetlands and Stream Mitigation Bank is located east of the intersection of Cork Cold Springs Road and State Route 45 in Austinburg Township, Ashtabula County, Ohio (Latitude 41.728658, Longitude -80.850536).

PROPOSAL: The Bank Sponsor has submitted a prospectus to the Corps -Buffalo District to establish a stream and wetland Umbrella Mitigation Banking Instrument (UMBI) for the Grand River Watershed (USGS 8-digit Hydrologic Unit Code 04110004) with one initial proposed mitigation bank, Hemlock Swamp Wetlands and Stream Mitigation Bank (hereafter, "HSMB").

The overall objective of the UMBI and the HSMB is to generate compensatory mitigation credits to offset unavoidable adverse impacts to wetlands and streams within the Service Area, as described below. Credits would be generated through the restoration (re-establishment and rehabilitation), establishment, enhancement and/or preservation of wetlands and streams and the restoration and/or preservation of upland buffers within the boundaries of HSMB and any future mitigation bank sites added to the UMBI.

SERVICE AREA: Service area means the geographic area within which impacts can be mitigated at a specific mitigation bank. The proposed service area is as follows:

- 1. For impacts to jurisdictional waters, the Service Area will encompass the entire Grand River 8-digit Hydrologic Unit Code (HUC 04110004) watershed in Ohio.
- 2. For non-jurisdictional stream and wetland impacts (state isolated wetland or ephemeral streams), the Service Area is as follows:
 - a. For impacts to isolated Category 1 wetlands of any size and isolated Category 2 wetlands of 0.5 acre or less, the service area includes the entire Ohio portion of the Buffalo Corps District (ORC §6111.022).
 - b. For impacts to isolated Category 2 wetlands greater than 0.5 acres, isolated Category 3 wetlands of any size, or to ephemeral streams, the service area will encompass the entire Grand River 8-digit Hydrologic Unit Code (HUC 04110004) watershed in Ohio.
- 3. Compensatory mitigation of wetland or stream impacts outside the Service Area can be considered by the Corps and/or Ohio EPA, as applicable, on a case-by-case basis consistent with applicable state and federal regulations and laws, including but not limited to 33 CFR §332, ORC §6111, and Ohio Administrative Code (OAC) §3745-1-54.
- 4. Approved mitigation credits generated by the mitigation site(s) authorized under this instrument can be purchased and used by in-lieu fee program sponsors to fulfill mitigation obligations for impacts located within the Service Area, and outside of the Service Area, on a case-by-case basis as approved by the Corps and/or Ohio EPA.

HSMB MITIGATION PLAN: The HSMB Site contains over 29.9 acres of wetlands and approximately 3,331 linear feet of streams. Approximately 58 acres of the HSMB Site has been cleared and drained for agriculture. The proposed activities and objectives of the HSMB are as follows:

 Re-establish high-quality forested and non-forested wetlands. Hydrology restoration, micro-topography restoration, and installation of native trees, shrubs, and seed mixes would take place.

- Re-establish high-quality forested uplands. The restored upland forests would be planted and seeded with native species at similar densities to the re-established wetlands, however, species would be chosen whose individual hydrology tolerances are suited to drier soil conditions with less frequent saturation or inundation.
- Rehabilitate existing degraded wetlands in the agricultural fields. Restoration activities, including tile removal, ditch plugging, micro-topography restoration, invasive species control, seeding, and planting, would restore a more dynamic and natural wetland ecosystem with a natural and balanced hydrologic regime.
- Restoration of step/pool bed morphology of on-site streams. The level of work that would be completed, along with the uplift to hydrology, biology, and water quality, from the proposed restoration activities is consistent with Mitigation Type 1, Activity Level 3, as defined in the 2016 Guidelines for Stream Mitigation Banking and In-Lieu Fee Programs in Ohio. No mitigation credit would be for the four small existing ephemeral channels.
- Preserve existing highly-quality wetlands and uplands. Preservation would be achieved by the recordation of a conservation easement.

Credits are proposed to be generated in accordance with the following tables:

		Area	Credits		
Wetland Re-establishment	Ratio	(ac)	Non-forested	Forested	Total
Non-Forested wetlands	1:1	6.3	6.3		6.3
Non-Forested wetlands (setback ¹)	1:2	1.0	0.5		0.5
Forested wetlands	1:1	35.8		35.8	35.8
Forested wetlands (setback ¹)	1:2	2.8		1.4	1.4
Forested wetlands/uplands mosaic	W=1:1	9.0		9.0	9.0
rofested wetlands/uplands mosaic	U=1:4	3.0		0.8	0.8
Forested uplands <100' from wetlands	1:4	7.5		1.9	1.9
Re-esta	ablishment Totals	65.4ac	6.8	48.9	55.7
Init	ial Credit Release	30%	2.0	14.7	16.7
Wetland Rehabilitation	Ratio	Area		Credits	
wedand kenabilitation		(ac)	Non-forested	Forested	Total
Rehabilitated wetlands (no credit generation)	1:4	0.7	N/A	N/A	N/A
Reh	abilitation Totals	0.7ac			
Init	ial Credit Release	15%		N/A	N/A
Wetland Preservation	Ratio	Area	Credits		
Wettaliu Freservation	Katio	(ac)	Non-forested	Forested	Total
Preserved forested wetlands	1:4	24.8		6.2	6.2
Preserved forested wetlands (setback ¹)	1:8	4.4		0.6	0.6
Preserved forested upland inclusions	1:10	46.7		4.7	4.7
Pr	eservation Totals	75.9ac	•	11.5	11.5
Init	ial Credit Release	100%		11.5	11.5
		Aron	Credits		
		Area	Non-forested	Forested	Total
Wetl	and Project Total	142.0ac	6.8	60.4	67.2
Init	ial Credit Release		2.0	26.2	28.2

Stream Restoration Mit. Type 1, Activity Level 4	Flow Regime	Ratio	Length (LF)	Credits
Stream 1	intermittent	1.5:1	302	453
Stream 2	intermittent	1.5:1	435	653
Stream 4	intermittent	1.5:1	279	419
Stream 5	intermittent	1.5:1	386	579
Stream 7	intermittent	1.5:1	223	335
Stream 8	intermittent	1.5:1	379	569
Stream 9b	intermittent	1.5:1	857	1,286
	Str	eam Project Totals	2,861	4,292
	In	itial Credit Release	30%	1,288

If approved, the Bank Sponsor would provide long-term protection of the HSMB through the recordation of a conservation easement. A designated third-party manager would be responsible for long-term management after bank closure. Financial assurances would be provided through a construction performance bond and a maintenance bond.

Location and details of the proposed HSMB are shown on the attached documents. The entire prospectus for the UMBI and the HSMB may be found on the Buffalo District's website along with this Public Notice: http://www.lrb.usace.army.mil/Missions/Regulatory/Public-Notices/

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification may be required from the Ohio Environmental Protection Agency in conjunction with the proposed establishment of the HSMB.

HISTORIC AND CULTURAL RESOURCES: Based on a review of the Ohio Historic Preservation Office (OHPO) Geocortex Viewer (Viewer), there do not appear to be any known properties listed in, or eligible for listing in, the National Register of Historic Places within the HSMB proper. The OHPO Viewer however does indicate several known archeological resources within the vicinity of the HSMB. This notice constitutes initiation of consultation with the OHPO per Section 106 of the National Historic Preservation Act; the Corps requests OHPO's technical expertise regarding the necessity for any surveys. Should any additional information concerning historic properties or cultural resources be submitted to the Corps before the end of the comment period of this notice, the Corps will forward the submitted information to the OHPO for their review.

THREATENED & ENDANGERED SPECIES: Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the Corps of Engineers is consulting with the USFWS to evaluate any potential impacts associated with HSMB site to: Indiana bat, northern long-eared bat, piping plover, Rufa red knot, and eastern massasauga rattlesnake, and to ensure that the proposed activity is not likely to jeopardize their continued existence or result in the destruction or adverse modification of critical habitat. The Corps has determined that the proposed activities will have no effect on piping plover and Rufa red knot, and may affect but are not likely to adversely affect Indiana bat, northern long-eared bat, and eastern massasauga rattlesnake.

REQUEST FOR PUBLIC HEARING: Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision-making process for this proposal. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the activities requiring approval or a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

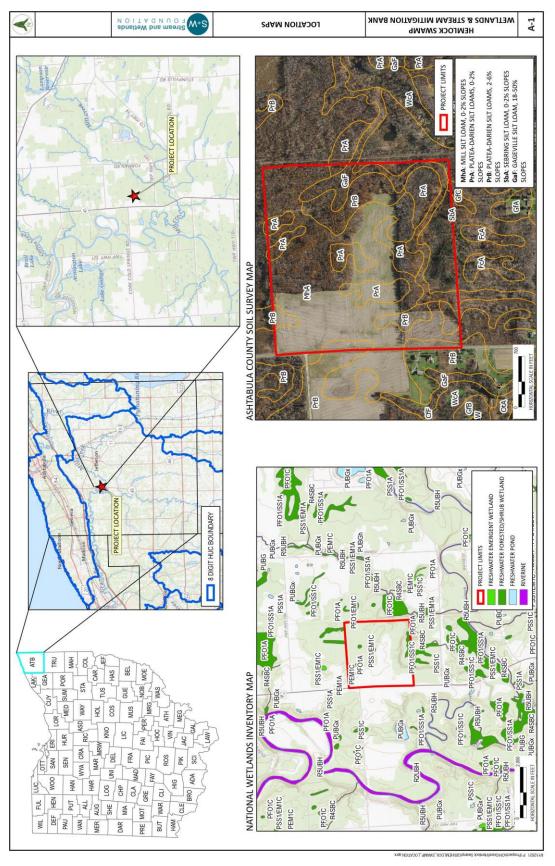
EVALUATION: The decision to approve or deny this proposal will be based on an evaluation of compliance with 33 CFR 332 (Compensatory Mitigation for Losses of Aquatic Resources, Federal Register: April 10, 2008, Effective June 9, 2008), and the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Comments are used in the preparation of an Environmental Assessment pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SIGNED

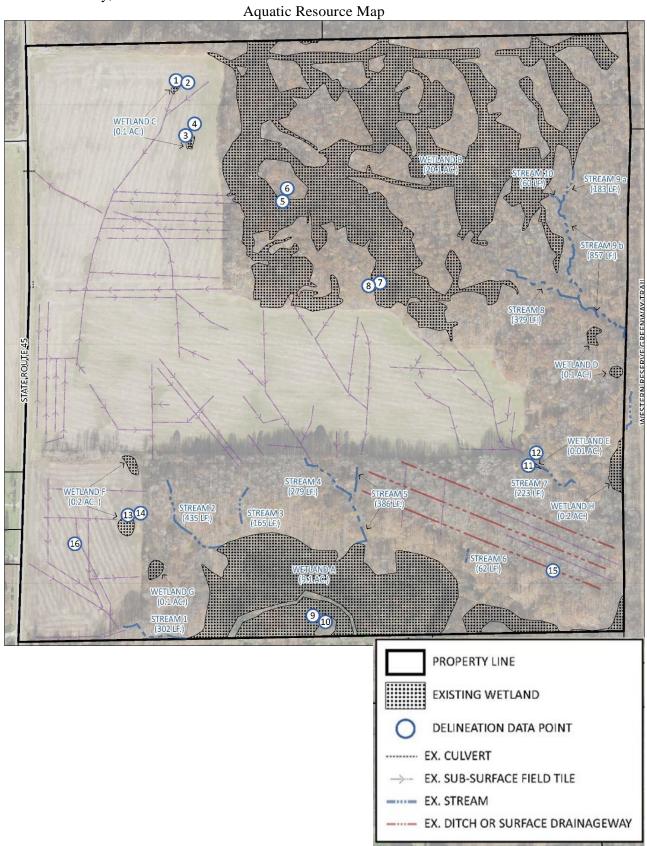
Steven V. Metivier Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.

 $Stream + Wetlands \ Foundation: \ Grand \ River \ UMBI \ and \ Hemlock \ Swamp \ Mitigation \ Bank$



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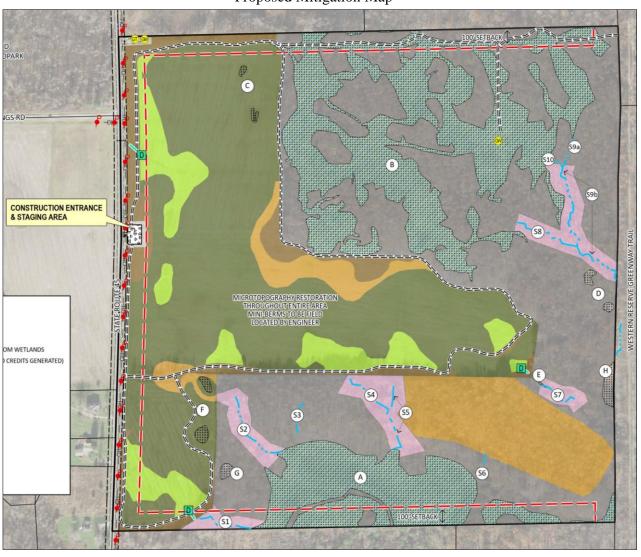


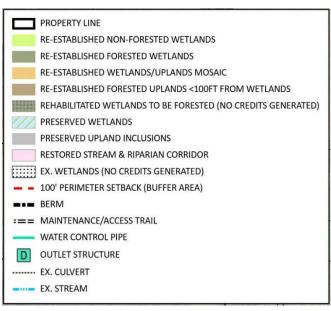
Stream + Wetlands Foundation: Grand River UMBI and Hemlock Swamp Mitigation Bank

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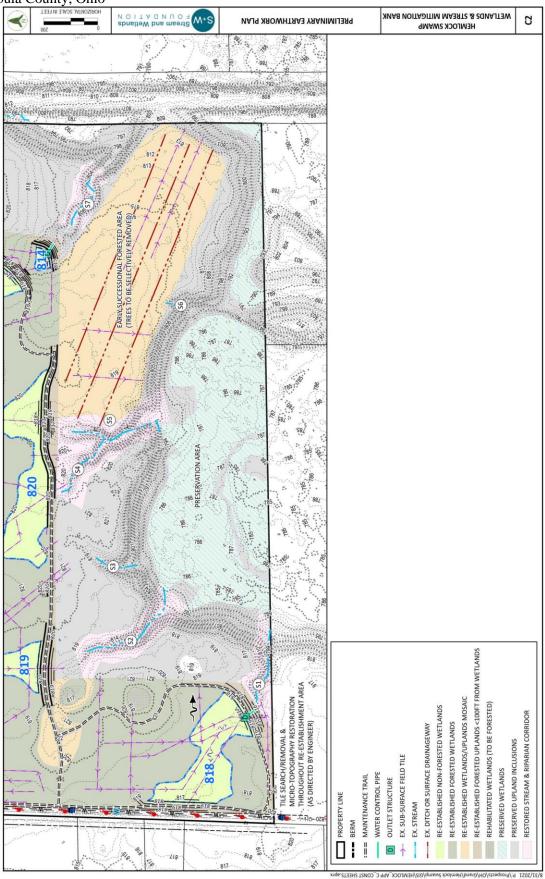
Quad: Jefferson, OH Ashtabula County, Ohio

Proposed Mitigation Map

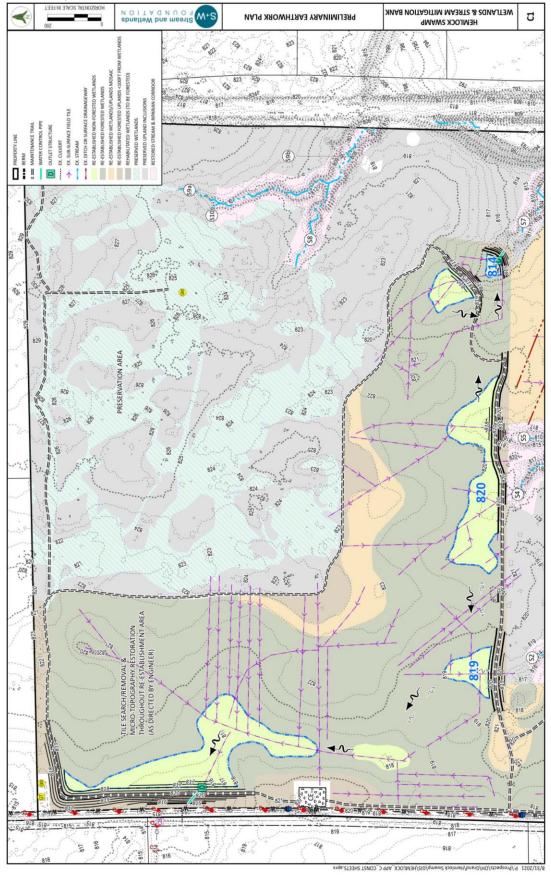




Stream + Wetlands Foundation: Grand River UMBI and Hemlock Swamp Mitigation Bank



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Department of Army No: LRB-2020-01259

Quad: Jefferson, OH Ashtabula County, Ohio

Proposed Planting Plan

TREE AND SHRUB SPECIES LIST						
SCIENTIFIC NAME	COMMON NAME	HABIT	INDICATOR STATUS ¹	WETLANDS	UPLANDS	C OF
Acer rubrum	red maple	tree	FAC	•	•	2
Acer saccharinum	silver maple	tree	FACW		•	3
Amelanchier laevis	smooth serviceberry	tree	FAC	•	•	5
Aronia melanocarpa	black chokeberry	shrub	FAC	•	•	5
Betula alleghaniensis	yellow birch	tree	FAC	•	•	7
Betula populifolia	gray birch	tree	FAC	•	•	5
Carpinus caroliniana	American hornbeam	tree	FAC		•	5
Carya giabra	pignut hickory	tree	FACU		•	5
Carya cordiformis	bitternut hickory	tree	FAC			5
Carya laciniosa	shellbark hickory	tree	FACW	•		7
Carya ovata	shagbark hickory	tree	FACU		•	7
Carya tomentosa	mockernut hickory	tree	UPL		•	6
Cephalanthus occidentalis	common buttonbush	shrub	OBL	•		6
Cornus alba	red osier	shrub	FACW	•		3
Cornus amomum	silky dogwood	shrub	FACW	•	•	2
Cornus racemosa	gray dogwood	shrub	FAC	•	•	1
Fagus grandifolia	American beech	tree	FACU		•	7
Hamamelis virginiana	American witch-hazel	shrub	FACU	•	•	5
llex verticillata	common winterberry	shrub	FACW	•		6
Larix laricina	Eastern larch	tree	FACW			9
Lindera benzoin	northern spicebush	shrub	FACW		•	5
Liriodendron tulipifera	tuliptree	tree	FACU		•	6
Morella pensylvanica	northern bayberry	shrub	FAC			10
Nyssa sylvatica	black tupelo	tree	FACW		•	7
Ostrya virginiana	hop-hornbeam	tree	FACU			5
Platanus occidentalis	American sycamore	tree	FACW			7
Populus deltoides	eastern cottonwood	tree	FAC			3
Populus heterophylla	swamp cottonwood	tree	OBL	•		9
Quercus alba	northern white oak	tree	FACU			6
Quercus bicolor	swamp white oak	tree	FACW	•		7
Quercus imbricaria	shingle oak	tree	FAC	•		5
Quercus macrocarpa	burr oak	tree	FACU	,	•	6
Quercus palustris	pin oak	tree	FACW		•	5
Quercus rubra	northern red oak	tree	FACU		•	6
Quercus velutina	black oak	tree	UPL		•	7
Rosa palustris	swamp rose	shrub	FACW	•		5
Rosa setigera	climbing prairie rose	shrub	FACU		•	4
Salix bebbiana	gray willow	shrub	FACW	•		5
Salix discolor	pussy willow	shrub	FACW			3
Salix exigua	sandbar willow	shrub	OBL	•		1
Salix lucida	shining willow	shrub	FACW	•		4
Salix nigra	black willow	tree	OBL	•		2
Salix sericea	silky willow	shrub	OBL	•		4
Sambucus nigra (syn. canadensis)	black elder	shrub	FACW	•		3
Spiraea alba	meadow-sweet	shrub	FACW	•		3
Spiraea tomentosa	steeplebush	shrub	FACW	•		4
Vaccinium corymbosum	highbush blueberry	shrub	FACW	•		6
/iburnum lentago	nannyberry	shrub	FAC			5

WETLAND SEED SPECIES LIST INDICATOR C OF					
SCIENTIFIC NAME	COMMON NAME	STATUS ¹	C C		
Agrimonia parviflora	harvestlice	FAC	2		
Asclepias incarnata	swamp milkweed	OBL	4		
Bidens aristosa	Midwest tickseed-sunflower	FACW	4		
Bidens cernua	nodding burr-marigold	OBL	3		
Bidens connata	purple-stem beggar's-tick	FACW	3		
Bidens frondosa	devil's begger's-ticks	FACW	2		
Bolboschoenus fluviatilis	river bulrush	OBL	5		
Brasenia schreberi	water shield	OBL	7		
Calamagrostis canadensis	bluejoint	OBL	4		
Carex crinita	fringed sedge	OBL	3		
Carex cristatella	crested sedge	FACW	3		
Carex frankii	Frank's sedge	OBL	2		
Carex hystericina	porcupine sedge	OBL	5		
Carex lacustris	hairy sedge	OBL	5		
Carex lupulina	hop sedge	OBL	3		
Carex lurida	shallow sedge	OBL	3		
Carex scoparia	pointed broom sedge	FACW	3		
Carex stricta	uptight sedge	OBL	5		
Carex tribuloides	blunt broom sedge	FACW	4		
Carex vulpinoidea	common fox sedge	OBL	1		
Clematis virginiana	devil's-darning-needles	FAC	3		
Cornus amomum	silky dogwood	FACW	2		
Cornus racemosa	gray dogwood	FAC	1		
Deschampsia cespitosa	tufted hairgrass	FACW	10		
Eleocharis palustris	common spikerush	OBL	5		
Elymus canadensis	Canada wild rye	FACU	6		
Elymus riparius	riverbank wild rye	FACW	5		
Elymus virginicus	Virginia wild rye	FACW	3		
Eutrochium maculatum	spotted joe pye weed	OBL	6		
Eupatorium perfoliatum	common boneset	FACW	3		
Euthamia graminifolia	flat-top goldentop	FAC	2		
Glyceria septentrionalis	floating manna grass	OBL	6		
llex verticillata	common winterberry	FACW	6		
Iris versicolor	northern blue flag	OBL	6		
Juncus acuminatus	sharp-fruited rush	OBL	4		
Juncus effusus	lamp rush	OBL	1		
Juncus torreyi	Torrey's rush	FACW	3		
Leersia oryzoides	rice cut grass	OBL	1		
Lindera benzoin	northern spicebush	FACW	5		
Lobelia cardinalis	cardinal-flower	FACW	5		
Lobelia siphilitica	great blue lobelia	FACW	3		
Mimulus ringens	Allegheny monkey-flower	OBL	4		
Nelumbo lutea	American lotus	OBL	7		
Nuphar advena	spatterdock	OBL	4		
Nymphaea odorata	fragrant water-lily	OBL	6		
Onoclea sensibilis	sensitive fern	FACW	2		
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SCIENTIFIC NAME	COMMON NAME	INDICATOR STATUS ¹	C OF
Peltrandra virginica	arrow-arum	OBL	5
Penstemon digitalis	foxglove beardtongue	FAC	2
Penthorum sedoides	ditch-stonecrop	OBL	2
Pontederia cordata	pickerelweed	OBL	6
Sagittaria latifolia	broadleaf arrowhead	OBL	1
Sambucus nigra	black elder	FACW	3
Schoenoplectus acutus	hard-stem club-rush	OBL	7
Schoenoplectus tabernaemontani	soft-stem club-rush	OBL	2
Scirpus atrovirens	dark-green bulrush	OBL	1
Scirpus cyperinus	cottongrass bulrush	OBL	1
Scirpus polyphyllus	leafy bulrush	OBL	6
Solidago gigantea	smooth goldenrod	FACW	3
Solidago patula	round-leaf goldenrod	OBL	6
Sparganium americanum	American burr-reed	OBL	6
Sparganium eurycarpum	broad-fruit burr-reed	OBL	4
Spartina pectinata	prairie cordgrass	FACW	5
Symphyotrichum novae- angliae			2
Symphyotrichum puniceum	purple-stem American-aster	OBL	7
Symplocarpus foetidus	skunk cabbage	OBL	7
Verbena hastata	simpler's-joy	FACW	4
Vernonia gigantea	giant ironweed	FAC	2